

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 4140

LAURA MCEDWARD
6298 Autumn Trail
Burlington, KY 41005

Pharmacy Technician License No. TCH 61602

Respondent.

DECISION AND ORDER

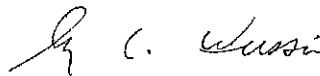
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on September 14, 2012.

It is so ORDERED on August 15, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4140

11 **LAURA R. MCEDWARD**
12 **6298 Autumn Trail**
13 **Burlington, KY 41005**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacy Technician License No. TCH 61602**

15 Respondent.

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
18 the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will
19 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

20
21 **PARTIES**

22 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
23 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
24 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

25 2. Laura R. McEdward (Respondent) is represented in this proceeding by attorney Paul
26 Chan, of Law Offices of Paul Chan, 400 Capitol Mall, Suite 2545, Sacramento, CA 95814.

27 3. On or about March 24, 2005, the Board of Pharmacy issued Pharmacy Technician
28 License No. TCH 61602 to Laura R. McEdward (Respondent). The License was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 4140 and will expire on April
2 30, 2013, unless renewed.

3
4 JURISDICTION

5 4. Accusation No. 4140 was filed before the Board of Pharmacy (Board), Department of
6 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
7 statutorily required documents were properly served on Respondent on October 6, 2011.
8 Respondent timely filed her Notice of Defense contesting the Accusation.

9
10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, discussed with counsel, and understands the charges
12 and allegations in Accusation No. 4140. Respondent also has carefully read, fully discussed with
13 counsel, and understands the effects of, this Stipulated Surrender of License and Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 her own expense; the right to confront and cross-examine the witnesses against her; the right to
17 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
18 compel the attendance of witnesses and the production of documents; the right to reconsideration
19 and court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23
24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 4140, agrees that cause exists for discipline and hereby surrenders to the her Pharmacy
27 Technician Registration No. TCH 61602 for the Board's formal acceptance.

28 ///

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician License without further process.

RESERVATION

10. Admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this stipulation, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 61602, issued to Respondent Laura R. McEdward, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacy Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. Respondent may not apply, reapply, or petition for any licensure or registration of the Board for three (3) years from the effective date of the Decision and Order.

5. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 4140 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

6. Respondent shall pay the Board its costs of investigation and enforcement in the amount of \$1,447.50 prior to issuance of a new or reinstated license.

7. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 4140 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

Exhibit A

Accusation No. 4140

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1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
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3 JOSHUA A. ROOM
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10 In the Matter of the Accusation Against:

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12 **6298 Autumn Trail**
13 **Burlington, KY 41005**

ACCUSATION

14 **Pharmacy Technician License No. TCH 61602**

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about March 24, 2005, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 61602 to Laura R. McEdward (Respondent). The License was in full force and
22 effect at all times relevant to charges herein and will expire on April 30, 2013, unless renewed.

23
24 JURISDICTION

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code (Code) unless otherwise indicated.

28 ///

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
7 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
8 disciplinary action during the period within which the license may be renewed, restored, reissued
9 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
10 renewed within three years following its expiration may not be renewed, restored, or reinstated
11 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
12 the Code provides that any other license issued by the Board may be canceled by the Board if not
13 renewed within 60 days after its expiration, and will require a new application.

14
15 STATUTORY AND REGULATORY PROVISIONS

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
17 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
18 not be limited to, any of the following:

19 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
20 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
21 whether the act is a felony or misdemeanor or not.

22 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
23 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
24 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
25 to the extent that the use impairs the ability of the person to conduct with safety to the public the
26 practice authorized by the license.

27 (j) The violation of any of the statutes of this state, of any other state, or of the United
28 States regulating controlled substances and dangerous drugs.

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable
3 federal and state laws and regulations governing pharmacy, including regulations established by
4 the board or by any other state or federal regulatory agency.

5 8. California Code of Regulations, title 16, section 1770, states:

6 "For the purpose of denial, suspension, or revocation of a personal or facility license
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
10 licensee or registrant to perform the functions authorized by her license or registration in a
11 manner consistent with the public health, safety, or welfare."

12 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
13 drug or dangerous device except upon the prescription of an authorized prescriber.

14 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
15 controlled substance, except that furnished upon a valid prescription/drug order.

16 11. Health and Safety Code section 11170 provides that no person shall prescribe,
17 administer, or furnish a controlled substance for himself or herself.

18 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
19 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
20 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
21 or subterfuge; or (2) by the concealment of a material fact.

22 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
23 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
24 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

25 14. Health and Safety Code section 11351, in pertinent part, makes it unlawful to possess
26 for sale or purchase for sale any controlled substance listed in Schedule II (Health and Safety
27 Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V.

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1 COST RECOVERY

2 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation of the licensing
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.
5

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. Section 4021 of the Code states:

8 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
9 11053) of Division 10 of the Health and Safety Code.”

10 17. Section 4022 of the Code states, in pertinent part:

11 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
12 except veterinary drugs that are labeled as such, and includes the following:

13 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
14 prescription,’ ‘Rx only,’ or words of similar import.

15 ...

16 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
17 prescription or furnished pursuant to Section 4006.”

18 18. **OxyContin** is a brand name for **oxycodone hydrochloride**, a Schedule II controlled
19 substance as designated by Health and Safety Code section 11055(b) and a dangerous drug as
20 designated by Business and Professions Code section 4022. It is a narcotic drug.
21

22 FACTUAL BACKGROUND

23 19. From an unknown start date until on or about November 17, 2010, Respondent
24 worked as a pharmacy technician at Moms Pharmacy (PHY 50165) in San Francisco, CA, where
25 by virtue of her employment she had access to controlled substances and dangerous drugs.

26 20. During the tenure of her employment with Moms Pharmacy, Respondent used her
27 access to divert/steal controlled substances and dangerous drugs, including **OxyContin** or other
28 controlled substances/dangerous drugs containing **oxycodone**.

21. The exact number of instances of diversion/theft by Respondent, and the full quantity of controlled substances or dangerous drugs diverted/stolen, are not known, but in the course of investigations conducted by Moms Pharmacy and by police, the following were reported:

a. On or prior to November 17, 2010, an audit at the corporate level of Moms Pharmacy discovered discrepancies in the ordering and inventory of **OxyContin/oxycodone**.

b. When staff were notified of the discrepancies, Respondent came forward with a confession that she had taken ten (10) or eleven (11) bottles of **OxyContin** (100 pills per bottle).

c. The audit identified approximately twenty (20) bottles of **OxyContin** missing.

d. Respondent subsequently admitted to San Francisco Police that between April 2009 and June 2010 she had taken approximately twenty (20) bottles of **OxyContin**, with a value of approximately \$22,000.00; from the stock of her employer, Moms Pharmacy. Respondent also admitted to police that she took the narcotics without consent, did so willingly, and that she sold the narcotics at various locations in San Francisco in order to supplement her income.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

22. Respondent is subject to discipline under section 4301(f) of the Code, in that Respondent, as described in paragraphs 19 to 21 above, committed numerous acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

SECOND CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substance(s))

23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described in paragraphs 19 to 21 above, furnished to herself or another, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance/dangerous drug, without a prescription.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Possession of Controlled Substance(s))

3 24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
4 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described
5 in paragraphs 19 to 21 above, possessed, conspired to possess, and/or assisted in or abetted
6 possession of, a controlled substance, without a prescription.

7
8 FOURTH CAUSE FOR DISCIPLINE

9 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

10 25. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
11 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
12 19 to 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
13 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

14
15 FIFTH CAUSE FOR DISCIPLINE

16 (Possession or Purchase of Controlled Substance(s) for Sale)

17 26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
18 and/or Health and Safety Code section 11351, in that Respondent, as described in paragraphs 19
19 to 21 above, possessed or purchased for sale, conspired to possess or purchase for sale, and/or
20 assisted in or abetted the possession or purchase for sale, of a controlled substance.

21
22 SIXTH CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct)

24 27. Respondent is subject to discipline under section 4301 of the Code in that
25 Respondent, as described in paragraphs 19 to 26 above, engaged in unprofessional conduct.

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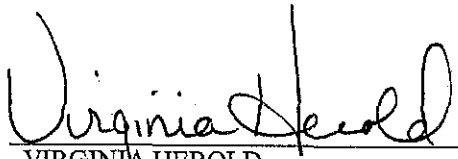
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License No. TCH 61602, issued to Laura R. McEdward (Respondent);
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 9/23/11



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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